

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
EDDY MOMPLAISIR,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF
CORRECTION, *et al.*,

Defendants.
-----X

**STIPULATION AND ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

07 Civ. 7001 (WHP)

WHEREAS, plaintiff Eddy Momplaisir commenced this action by filing a complaint on August 6, 2007, alleging a violation of rights guaranteed by the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "3" below.
2. Plaintiff agrees to substitute the City of New York as the sole defendant in the above-referenced action.

3. The City of New York hereby agrees to pay to plaintiff the sum of \$500.00 in full satisfaction of all claims that were or could have been raised in this action, including claims for costs, expenses, and attorney's fees.

4. In consideration for the payment of the amount set forth in paragraph "3" above, plaintiff agrees to dismiss all claims against all defendants named and substituted in this action, and to release these defendants, their successors or assignees, and all present or former officials, employees, independent contractors, representatives, or agents of the City of New York and/or the New York City Department of Correction ("DOC"), from any and all liability for claims based on any act, omission, event, or occurrence, past or present, described in or arising from the allegations set forth in the complaint in this litigation, including claims for attorney's fees, costs, and expenses.

5. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release for all defendants based on the terms of paragraph "4"; a Stipulation and Order of Dismissal dismissing defendants Assistant Deputy Warden Tindal, Assistant Deputy Warden Barrett, Captain John, Captain Rakestraw, Captain Zouhbi, Captain McFarlane, Correction Officer Latimore, Correction Officer Attmore, and Correction Officer Goodman; and a substitute W-9 form.

6. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York, or any other rules, regulations, or bylaws of any department or subdivision of the City of New York or DOC. This

stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiation.

7. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or DOC.

8. This Stipulation and Order, and the Stipulation and Order of Dismissal referenced herein, contain all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of these Stipulations regarding the subject matter of the instant action shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
May 7, 2008

Eddy Momplaisir
Plaintiff *Pro Se*
08A0009
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562-5442

By: 

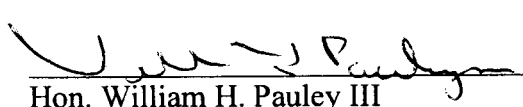
EDDY MOMPLAISIR

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By: 

Toni Gantz
Assistant Corporation Counsel

SO ORDERED:


Hon. William H. Pauley III
United States District Judge

5/19/08